

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**JASON D. ALSTON**

**PLAINTIFF**

**V.**

**NO. 4:16-CV-236-DMB-JMV**

**MISSISSIPPI DEPARTMENT OF  
TRANSPORTATION**

**DEFENDANT**

**ORDER**

This employment discrimination action is before the Court on two Report and Recommendations issued by United States Magistrate Judge Jane M. Virden—one recommending that Jason D. Alston’s pending motion for judgment as a matter of law be denied, Doc. #50; and one recommending that the Mississippi Department of Transportation’s first motion to dismiss be denied as moot, Doc. #75.

**I**  
**Procedural History**

On November 29, 2016, Jason D. Alston filed a complaint in this Court alleging that the Mississippi Department of Transportation (“MDOT”), his former employer, subjected him to “unlawful race discrimination, disability discrimination, racial harassment, hostile work environment and retaliation.” Doc. #1 at 1. Approximately two months later, on January 9, 2017, Alston, with leave of the Court, filed an amended complaint alleging the same claims. Doc. #21.

MDOT answered the amended complaint on February 27, 2017, Doc. #35; and filed a motion to dismiss the amended complaint on March 31, 2017, Doc. #41. Alston filed three separate responses to the motion to dismiss. Doc. #42; Doc. #43; Doc. #47.

On April 6, 2017, Alston filed a motion for judgment as a matter of law. Doc. #44. MDOT responded to the motion on April 17, 2017. Doc. #46.

On June 1, 2017, United States Magistrate Judge Jane M. Virden issued a Report and Recommendation recommending that Alston's motion for judgment as a matter of law be denied as premature. Doc. #50. A week later, Alston filed a document stating that he had no objection to the denial of his motion. Doc. #51. MDOT did not object to the Report and Recommendation.

On July 28, 2017, Alston, with leave of the Court, filed a second amended complaint. Doc. #64. Less than a month later, Alston, again with leave of the Court, filed a third amended complaint. Doc. #70.

On September 25, 2017, Judge Virden issued a Report and Recommendation recommending that MDOT's motion to dismiss be denied as moot in light of the filing of the third amended complaint. Doc. #75. Neither party filed objections to the Report and Recommendation.

## **II** **Analysis**

Where objections to a report and recommendation have been filed, a court must conduct a "de novo review of those portions of the ... report and recommendation to which the Defendants specifically raised objections. With respect to those portions of the report and recommendation to which no objections were raised, the Court need only satisfy itself that there is no plain error on the face of the record." *Gauthier v. Union Pac. R.R. Co.*, 644 F.Supp.2d 824, 828 (E.D. Tex. 2009) (citing *Douglass v. United Serv. Auto. Ass'n*, 79 F.3d 1415, 1428–29 (5th Cir. 1996)). The Court has reviewed each Report and Recommendation and has found no plain error; therefore, both Report and Recommendations [50][75] are **ADOPTED** as orders of the Court. Accordingly, Alston's motion for judgment on the pleadings [44] is **DENIED** and MDOT's motion to dismiss [41] is **DENIED as moot**.

**SO ORDERED**, this 17th day of October, 2017.

**/s/Debra M. Brown**  
**UNITED STATES DISTRICT JUDGE**